

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

BRYAN MESSENGER,)	
)	
Plaintiff,)	Case No.:
)	
v.)	
)	
NATIONAL BOARD OF MEDICAL DEMANDED EXAMINERS,)	JURY TRIAL
)	
)	
Defendant.)	
)	

PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

Comes now Plaintiff, Bryan Messenger, by and through counsel, and moves this Court for entry of a preliminary injunction ordering Defendant National Board of Medical Examiners (NBME) to immediately provide Dr. Messenger double time to complete the USMLE Step 2 CK. Dr. Messenger must pass this test in order to obtain his medical license and competitively apply for residency programs.

Dr. Messenger has dyslexia. The double time that Dr. Messenger seeks from the NBME is the same testing accommodation that he received for examinations throughout medical school on the basis of extensive testing and documentation. Double time is an accommodation that the NMBE routinely provides for test-takers. Despite NBME’s history of providing double time as a testing accommodation and Messenger’s well-documented need for such double time, NMBE

has twice refused his requests for this accommodation. As a result, Messenger has been unable to obtain scores that fairly measure his ability rather than his disability and his dream of becoming a pediatrician has been put on hold indefinitely. Messenger moves for preliminary injunctive relief so that he can take the USMLE Step 2 CK by July 15, 2017 with accommodations in order to submit a competitive application for summer 2018 residency programs.

As grounds for this Motion, Plaintiff states as follows: 1) Plaintiff is likely to succeed on the merits; 2) Plaintiff is likely to suffer irreparable harm in the absence of preliminary relief; 3) The balance of equities tips in Plaintiff's favor; and 4) A preliminary injunction is in the public interest.

Plaintiff further requests this Court waive the entry of a bond as security for the entry of preliminary relief.

This Motion is supported by a Memorandum of Law, the Declaration of Plaintiff Bryan Messenger, and the Declaration of Lisa P. Kestler, PhD.

Dated: May 26, 2017

Respectfully submitted,

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*Motions to participate pro hac vice to be
submitted after case opened